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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)
Deas Communications, Inc.,)
et al.)

MM Docket No. 92-111

File Nos. BPH-910208MB
et al.

ORIGINAL
FILE

For A Construction Permit)
For A New FM Station on)
Channel 240A)
Healdsburg, California)

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AUG 5 1992

To: Hon. Edward J. Kuhlmann,
Administrative Law

FCC MAIL BRANCH

REPLY TO OPPOSITION TO
PETITION TO ENLARGE ISSUES

Healdsburg Broadcasting, Inc. ("HBI"), by its attorney and pursuant to Sections 1.229(b)(1) and 1.45 of the Commission rules, hereby replies to the July 24, 1992 Opposition to Petition to Enlarge Issues filed by Deas Communications, Inc. ("Deas"), as supplemented July 29, 1992. Amidst the rhetoric and miscellaneous irrelevant case citations, Deas, in its Opposition, tries to gloss over Mario Deas' admitted misrepresentation to the Commission that he "presently has the tacit approval of the Dry Creek Valley Association" to his tower proposal and transmitter site. To excuse this misrepresentation, Deas' Opposition is devoted to attempting to explain his view of the circumstances that led to what he is now calling his "belief." See Deas July 23, 1992 Declaration attached to Deas' Opposition at page two.

Deas' excuses should not be accepted and, in fact, Mr. Deas' latest declaration contains further misrepresentations to the Commission about the Dry Creek Valley Association, Inc.'s ("Association") unwavering opposition to the Deas proposal, of which Mr. Deas was doubtlessly aware. Attached hereto is a true

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copy of a further letter from Charles Richard, President of the Dry Creek Valley Association, Inc. to the Commission, dated July 31, 1992, wherein Mr. Richard reiterates that Mr. Deas is flat out wrong that the Association's letter of July 9, 1992 did not express the opposition to the Deas proposal of the entire Association, since it was presented to the Board of Directors of the Association at its regularly scheduled meeting on July 8, 1992 "and unanimously approved in the exact form as sent." See President Richard's July 31, 1992 letter attached hereto.

President Richard further states in his letter to the Commission that Deas' representation in his July 23, 1992 declaration that "the Association has not ever taken a position against my proposal in any letter, news article, or elsewhere (emphasis supplied)," is untrue. There, he states:

Second, the Association's long-standing position on transmission towers remains, and is on file with the County. It is that new tower sites, whether proposed by Mr. Deas or anyone else, should not be approved in rural Sonoma County. Rather, additional towers should be located at sites which have already been developed for such uses.

Finally, we [the Association Board of Directors] reiterate that Mr. Deas does not have the approval of the Dry Creek Valley Association, tacit or otherwise. Our Association operates by consensus, not by the informal conversation of any of its officers or directors. Again, the unanimous consensus of our Board was set forth in my previous letter. We oppose the proposal by Mr. Deas, or any other applicant, for a tower in the Dry Creek Valley area on a site not already in use as a tower site.

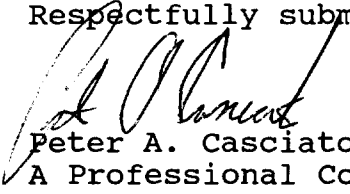
I hope I have been clear beyond the possibility of misunderstanding.

In view of this clear statement, Deas' confessional declaration of July 23, 1992 is both unconvincing and unavailing in Deas'

attempt to avoid the requested lack of candor issue. The Association has not "been conspicuously silent" as Deas alleges in its Opposition (see page 6) and far from tacitly approving anything, it is on record with Sonoma County and this Commission directly to the contrary.¹

The law is well-settled in this regard. Intentional deceit in an FCC proceeding can lead to disqualification. RKO General, Inc., 78 FCC 2d 1, aff'd RKO General, Inc. v. FCC, 670 F2d 215 (D.C. Cir 1981). Here, the letters from the Dry Creek Valley Association, Inc. raise substantial and material questions of fact concerning the intentions and the truthfulness of Mr. Deas and his candor with the Commission, warranting the addition of the requested issue and its exploration at hearing. Richardson Broadcasting Group, 7 FCC Rcd 1583 (1992).

Respectfully submitted,



Peter A. Casciato
A Professional Corporation
1500 Sansome Street Suite 201
San Francisco, CA 94111
(415) 291-8661

August 4, 1992

Counsel to Healdsburg
Broadcasting, Inc.

¹The Association's opposition to the Deas proposal is no small matter since it represents the interests of the residential and commercial property owners in the area in which the Deas' tower is to be erected. See June 16, 1992 Declaration of Willard A. Carle, III, Esq., Attachment A to HBI's June 18, 1992 Petition to Enlarge.

Dry Creek Valley Association, Inc.

P. O. BOX 1221 — HEALDSBURG — CALIFORNIA 95448

July 31, 1992

Federal Communications Commission
Chief, Mass Media Bureau
1919 M Street, NW
Room 314
Washington, DC 20554

Dear Federal Communications Commission:

On behalf of the Dry Creek Valley Association, I feel compelled to respond to the Declaration of Mario Edgar Deas dated July 23, 1992. Mr. Deas has misconstrued the Association's letter dated July 9, 1992, and the position of the Association.

First, contrary to the implications of Mr. Deas, the Association's letter dated July 9, 1992, does not simply represent my view, but was first read to the Association's Board of Directors at its regular meeting of July 8, 1992, and unanimously approved in the exact form as sent.

Second, the Association's long-standing position on transmission towers remains, and is on file with the County. It is that new tower sites, whether proposed by Mr. Deas or anyone else, should not be approved in rural Sonoma County. Rather, additional towers should be located at sites which have already been developed for such uses.

Finally, we reiterate that Mr. Deas does not have the approval of the Dry Creek Valley Association, tacit or otherwise. Our Association operates by consensus, not by the informal conversation of any of its officers or directors. Again, the unanimous consensus of our Board was set forth in my previous letter. We oppose the proposal by Mr. Deas, or any other applicant, for a tower in the Dry Creek Valley area on a site not already in use as a tower site.

I hope I have been clear beyond possibility of misunderstanding.

Very truly yours,



CHARLES RICHARD
President

CERTIFICATE OF SERVICE

I, Peter A. Casciato, certify that the following is true and correct:

I am employed in the City and County of San Francisco, California, am over the age of eighteen years, and am not a party to the within entitled action:

My business address is: 1500 Sansome St., Suite 201, San Francisco, California 94111.

On August 4,, 1992, I caused the attached Reply to Opposition to Petition to Enlarge Issues of Healdsburg Broadcasting, Inc. to be served by causing true copies thereof, enclosed in sealed envelopes with postage thereon fully prepaid, to be placed in the United States Post Office mail box at San Francisco, California, addressed to the following listed people:

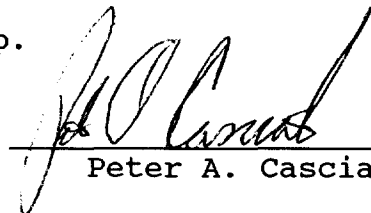
Hon. Edward J Kuhlmann
Administrative Law Judge
Federal Communications Commission
2000 L Street, NW Room 220
Washington, DC 20036

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Peter A. Casciato